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ABSTRACT

The Georgia State Department of Education recognizes two separate methods for utilizing construction management services by local school systems when state capital outlay funds are involved. This report details those two methods. The report first describes the Construction Management (CM)-Agency approach, which allows a CM-Agency manager to enter into a professional services contract similar to an architectural or engineering contract with the local board of education (LBOE). The CM-Agency performs no work with its own employees, receives no additional fees or profit margins from the project other than the fees or expenses provided for in the contract, and maintains a position in the project independent from the designer and the contractors. The report then explains the Construction Management-At Risk approach, which involves a construction services contract with the LBOE in which the CM-At Risk manager contracts the various components of the project the way in which a general contractor would. The CM-At Risk manager does not usually perform any portion of the work except for those items specified under the general conditions of the contract such as cleanup, layout, and security. (RJM)

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CONSTRUCTION MANAGEMENT GUIDELINES for CAPITAL OUTLAY PROGRAM PROJECTS

GEORGIA DEPARTMENT OF EDUCATION
FACILITIES SERVICES UNIT
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GEORGIA DEPARTMENT OF EDUCATION
CONSTRUCTION MANAGEMENT GUIDELINES

The Georgia Department of Education shall recognize two separate and distinct methods of utilizing construction management (CM) services by local school systems when state capital outlay funds are involved in a project. These methods are delineated as follows.

Construction Management - Agency

Under this approach, the CM-Agency manager enters into a professional services contract with the local boards of education (LBOE) similar to an architectural or engineering contract. The CM-Agency performs no work with its own employees, receives no additional fees or profit margins from the project other than the fees and/or expenses provided for in the contract, and maintains a position in the project independent from the designer and contractors.

Construction Management - At Risk

Under this approach, the CM-At Risk enters into a construction services contract with the LBOE similar to an architectural or engineering contract. The CM-At Risk contracts the various components of the project similar to a general contractor. The CM-At Risk does not perform any portion of the work except for those items specified under the general conditions of the contract such as cleanup, layout, security, etc. except when certain conditions as described later in this guideline exist, and the CM-At Risk meets the criteria specified in this document. The CM-At Risk maintains a position in the project independent from the designers, but has a direct contractual relationship with all of the trade contractors.

A LBOE choosing one of these two methods shall abide by the following requirements in order to receive state capital outlay grant funds.

Construction Management - Agency

A LBOE planning to use a CM-Agency on projects with state funds must meet the following requirements.

1. A predesign conference shall be held to discuss the conditions that will apply to construction projects with state funding when CM-Agency will be used. Participants in the predesign conference must be the local superintendent or a designated representative, the LBOE's architect of record, the CM-Agency representative and the Georgia Department of Education, Facilities Services, representative.

   Approval to proceed will be provided by the Georgia Department of Education, Facilities Services, when an understanding and agreement to operating conditions have been reached by all parties.

2. The LBOE shall have a written contract with the CM-Agency that shall have prior approval from the Georgia Department of Education, Facilities Services. The architectural contract and the CM-Agency contract shall not be in conflict as to services to be rendered.

3. The CM-Agency shall purchase and maintain the following insurance:

   a) Workers compensation for the CM employees.
   b) Protection of the owner from public liability due to injury or destruction of tangible property including the loss resulting therefrom.
   c) Professional liability to include errors and omissions for services to be performed.
   d) If the CM-Agency is to be responsible for payments to contractors on behalf of the LBOE, it shall be covered by a payment bond in the amount of the individual contract(s) for which payment is to be made.

4. The LBOE shall publicly and competitively bid all work and submit the documentation of bids received as well as the contracts to be awarded to the Georgia Department of Education, Facilities Services Unit. All contractors shall be backed by a 100 percent performance and 100 percent payment bond for work to be performed and shall carry the necessary liability insurance as required by the bid documents. All bidding procedures shall be in compliance with State Board of Education rules.

5. The CM-Agency and its subsidiaries are only eligible to perform work under the general conditions portion of the state-approved project documents. All other work shall be publicly and competitively bid with documentation of bids received submitted to the Georgia Department of Education for approval prior to contracting. (CM-Agency is <u>not</u> eligible to bid on any of the bid packages.)

6. General contractors may submit bids for any bid package in the project.

7. All work (to include any change orders) completed under the CM-Agency contract shall have prior approval of the architect of record, the LBOE, and the Georgia Department of Education.

8. <u>All</u> rules in Chapter 160-5-4 of the Georgia Department of Education, Facilities Services Section, which apply to construction of schools (160-5-4-.10,-.11,-.15,-.16,-.18), shall be followed for each project.

9. The CM-Agency firm and architectural firm (and their employees) shall not enter into a contract with each other to perform any services related to the project. <u>Neither</u> the architect of record <u>nor</u> the CM-Agency firm (nor their employees) shall have any vested interest in the other's business.

10. All requests for periodic reimbursements of state funds shall be submitted to the Georgia Department of Education by the LBOE and shall be consolidated and submitted in the format and manner prescribed by the department.

Construction Management - At Risk

A LBOE planning to use CM-At Risk on projects with state funds must meet the following requirements:

1. A predesign conference shall be held to discuss the conditions that will apply to any construction project with state funding when CM-At Risk is to be used. Participants in the predesign conference must be the local superintendent or designated representative, the local board of education's architect of record, the CM-At Risk representative and the Georgia Department of Education, Facilities Services, representative.

2. The LBOE shall have a written contract with the CM-At Risk that shall have prior approval by the Georgia Department of Education, Facilities Services Unit. This agreement shall be a single construction contract with the CM-At Risk holding all other construction contracts for the project. The contract shall specify the general conditions work to be performed and other responsibilities of the CM-At Risk.

3. The CM-At Risk contract shall be backed by a 100 percent performance and 100 percent payment bond and carry the necessary project liability insurance as required by State Board of Education rules plus professional liability insurance.

4. The CM-At Risk and its subsidiaries are only eligible to perform work under the general conditions portion of the project unless the following conditions exist:

   a) The conditions under which the LBOE may allow the CM-At Risk to use its own forces to perform the work in a bid package are described in the instructions to bidders.

   b) The CM-At Risk's Guaranteed Maximum Price (GMP) and a line item amount for each of the bid packages that includes any overhead and profit must be presented to the LBOE and approved by the LBOE prior to opening any bids. (The CM-At Risk is not eligible to submit a competitive bid on any of the bid packages.)

   c) All work (other than the general conditions) must be publicly and competitively bid, and documentation of the bids received must be submitted to the Georgia Department of Education for approval prior to contracting.

   d) After bids have been opened, the CM-At Risk may (with written permission from the LBOE) perform the work included in a bid package with its own forces ***IF***:

      i) The lowest responsible and responsive bid received for a package of work exceeds the line item amount in the CM-At Risk's approved GMP and any

value engineering or redesign permitted fails to reduce the cost to an amount equal to or less than the CM-At Risk's line item amount. When these conditions exist, the CM-At Risk may perform the work described in that bid package with its own forces (with the approval of the LBOE) for the lump sum amount stated as a line item for such work in the CM-At Risk's approved GMP. The lump sum amount stated as a line item in the CM-At Risk's approved GMP shall include any overhead and profit.

ii) No responsible and responsive bid is received for a package of work. When this condition exists, the CM-At Risk may perform the work described in that package of work with its own forces (with the approval of the LBOE) for the lump sum amount stated as a line item for such work in the CM-At Risk's approved GMP. The lump sum amount stated as a line item in the CM-At Risk's approved GMP shall include any overhead and profit.

iii) The line item amount for a package of work as stated in the CM-At Risk's approved GMP shall be deemed to be a bid from the CM-At Risk for the work to be performed by the CM-At Risk only if the conditions described in 4. d) i) or 4. d) ii) exist.

e) **Except** for General Condition items and/or under the conditions described in 4. f) of this guideline, the CM-At Risk shall **not** be entitled to a CM fee for any work performed with its own forces. The CM fee shall be reduced by the line item amount in the CM-At Risk's GMP for each package of work that the CM-At Risk performs with its own forces.

f) The CM-At Risk may with its own forces perform work encompassed within any Trade Contract between the CM-At Risk and any Trade Contractor upon the termination of such Trade Contract by the CM-At Risk by reason of the default or abandonment of the work by the Trade Contractor. The CM-At Risk shall perform such work or the balance thereof remaining at the time of termination for an amount not exceeding the remaining unexpended balance of the Trade Contract at the time of termination. If the CM performs work with its own forces in accordance with the conditions described in this paragraph, the CM's fee shall not be reduced.

5. General contractors may submit competitive bids for any bid package in the project.

6. All work (including change orders) completed under the CM-At Risk shall have the approval of the architect of record, the local board of education, and the Georgia Department of Education.

7. All rules in Chapter 160-5-4 of Georgia Department of Education, Office of Administrative Services, Facilities Services Unit, which apply to construction of schools (160-5-4-.10, -.11, -.15, -.16, -.18), shall be followed for each project.

8. The CM-At Risk and architectural firm (and their employees) shall not enter into a contract with each other to perform any services related to the project. Neither the architectural firm nor the CM firm (nor their employees) shall have any vested interest in the other's business.

9. All requests for periodic reimbursements of state funds shall be submitted to the Georgia Department of Education by the LBOE and shall be consolidated and submitted in the format and manner prescribed by the department.

Architect of Record (CM-Agency and CM-At Risk)

The use of CM does not negate the requirement for an architect of record to be contracted with by the local board of education. All communication and required approvals shall flow from the CM firm through the architect of record through the local board of education to the Georgia Department of Education. Pay requests, change orders, and work approval will not be accepted by the Georgia Department of Education without prior approval of the architect of record and the local board of education.